

Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Jimmy H. Kelley)	File No.: EB-FIELDSCR-13-00008393
)	NOV No.: V201332620021
Owner of Antenna Structure No. 1040632)	
)	
Hamburg, Arkansas)	
)	

NOTICE OF VIOLATION

Released: July 1, 2013

By the Deputy Regional Director, South Central Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)¹ to Jimmy H. Kelley, owner of antenna structure number 1040632 in Hamburg, Arkansas. Pursuant to Section 1.89(a) of the Rules, issuance of this NOV does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation(s) noted herein.²

2. On May 1, 2013, the following violation was observed:

- a. 47 C.F.R. § 17.51: *"All red obstruction lighting shall be exhibited from sunset to sunrise unless otherwise specified."* On May 1, 2013, an officer with the Ashley County Sheriff's Office observed that none of the red obstruction lighting on antenna structure number 1040632 was lit after sunset.

3. Pursuant to Section 403 of the Communications Act of 1934, as amended,³ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore Mr. Kelley must submit a written statement concerning this matter within ten (10) calendar days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁴

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

³ 47 U.S.C. § 403.

⁴ 47 C.F.R. § 1.89(c).

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4. In accordance with Section 1.16 of the Rules, we direct Mr. Kelley to support his response to this Notice with a signed and dated affidavit or declaration under penalty of perjury, verifying the truth and accuracy of the information therein,⁵ and confirming that all of the information requested by this Notice which is in the his possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁶

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
New Orleans Office
2424 Edenborn Ave., Suite 460
Metairie, Louisiana 70001

6. This Notice shall be sent via certified, return receipt requested, and first class mail to Jimmy H. Kelley at his address of record.

7. The Privacy Act of 1974⁷ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Lloyd Perry
Deputy Regional Director
South Central Region
Enforcement Bureau

⁵ Section 1.16 of the Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.” 47 C.F.R. § 1.16.

⁶ 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).